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7                   **UNITED STATES DISTRICT COURT**  
8                   **DISTRICT OF NEVADA**  
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10 PAUL SCOTT KLEIN,

11                 Plaintiff,

Case No. 2:08-cv-1475-LDG (LRL)

12 v.

**ORDER**

13 SEAN KIM, *et al.*,

14                 Defendants.

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16                 Previously, the Magistrate Judge denied (#44) plaintiff Paul Klein's Motion for Order  
17 for U.S. Marshals to Serve Defendants Cheryl Burson, Eric Burson and Roy Plumlee and  
18 his Motion to Extend 120-Day Service Requirement. The Magistrate Judge further  
19 recommended that the Court grant the Motion to Dismiss (#28) and to dismiss Cheryl  
20 Burson, Eric Burson and Roy Plumlee as they had not been timely served.

21                 Klein has filed an objection (#45) to the recommendation, and the served  
22 defendants have filed a response (#46). He also moved to strike the motion to dismiss  
23 (#32).

24                 Despite untimely serving Plumlee, and being denied an extension of time to serve  
25 him, Klein has also moved for entry of a clerk's default (#33) as to Plumlee.  
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1       The Magistrate Judge's recommendation to dismiss the three unserved defendants  
2 arises from the fact that Klein failed to timely serve them within 120 days, and that he  
3 lacked good cause for this failure. The court agrees. Accordingly,

4           **THE COURT ORDERS** that the Motion to Dismiss (#28) is GRANTED;

5           **THE COURT FURTHER ORDERS** that the Paul Klein's Motion to Strike (#32) the  
6 Motion to Dismiss is DENIED;

7           **THE COURT FURTHER ORDERS** that Paul Klein's Motion for Entry of Clerk's  
8 Default (#33) as to Roy Plumlee is DENIED as moot.

9           **THE COURT FURTHER ORDERS** that Paul Scott Klein's Complaint is DISMISSED  
10 as to defendants Cheryl Burson, Eric Burson, and Roy Plumlee.

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12          DATED this 1 day of July, 2009.

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Lloyd D. George  
United States District Judge

